

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7211

BILL NUMBER: HB 1406

NOTE PREPARED: Mar 1, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Alcoholic Beverage Matters.

FIRST AUTHOR: Rep. Whetstone

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Alcohol Permit and Tobacco Certificate Changes*: This bill increases the term of a retailer or dealer's permit to two years (instead of one year), but requires an annual permit fee.

The bill also increases the following permit fees:

- (1) one-way retailer's or dealer's permit from \$250 to \$375 annually.
- (2) Two-way retailer's or dealer's permit from \$500 to \$625 annually.
- (3) Three-way retailer's or dealers permit from \$750 to \$875 annually.

The bill also makes the following changes with respect to supplemental retailer's permit:

- (1) It estimates the gross food sales requirement;
- (2) It makes all supplemental retailer permits \$500 annually;
- (3) It increases the term of a permit to two years.

The bill also repeals provisions concerning food sales requirements for issuance of a supplemental retailer's permit.

The bill increases the term for a salesman's license from two to four years. The bill also increases the fee for a salesman's license from \$20 to \$100.

The bill also increases the fee for a temporary bartender's permit from \$4 to \$5 dollars.

It increases the fee for an employee's permit used to perform volunteer service from \$5 to \$15.

The bill increases the fee for a tobacco certificate to \$200 and the term of a certificate from one to three years. The bill also makes it a Class A infraction for a person to sell or distribute tobacco products to a tobacco retailer who does not hold a valid tobacco sales certificate.

The bill provides that the ATC may suspend a permit if the permit holder has not paid the seller of the permit in accordance with the terms of the sale and the seller has obtained a judgment.

The bill also allows the ATC to auction not more than five three-way permits to restaurants in Jeffersonville and Clarksville that are located in an economic development district. The bill requires a minimum bid of \$35,000 and a renewal fee of \$1,350, that are deposited in the Enforcement and Administration Fund.

Permit Fee Distributions: The bill requires 34% of the permit fees for certain permits to be deposited in the Enforcement and Administration Fund (EA Fund) and 66% of the permit fees in the state General Fund (currently 100% of the permit fees for these permits are deposited in the General Fund.) The bill also changes the distribution of the Excise Fund to provide that 50% of the Excise Fund is deposited in the EA Fund, 25% is distributed to the state General Fund, and 25% is distributed to municipal governments.

ATC Definition of Grocery Store: This bill requires the Alcohol and Tobacco Commission (ATC) to adopt a definition of "grocery store".

Notice by Publication Requirements: The bill changes the publication requirement to require that the ATC publish notice of a new retailer or dealer's permit and notice of investigation one time in a newspaper of general circulation published in the county where the permit is located.

Samples from Retailers/Dealers: The bill allows a beer retailer to permit customers to sample beer and flavored malt beverages. The bill also allows a liquor retailer or dealer to allow customers to sample flavored malt beverages.

Primary Source of Supply: The bill provides that if a primary source of supply acquires the rights to a product and decides not to have a beer wholesaler continue to distribute the product, the wholesaler must be compensated for the loss of the right to distribute the product or the wholesaler will continue to distribute the product.

Wholesaler Discounts: The bill also allows a beer wholesaler to offer a special discount price to a beer dealer or beer retailer if the beer or flavored male beverage is a brand or package the beer wholesaler has discontinued or the beer or flavored male beverage will expire within a certain date.

Manufacturer Incentives: The bill allows a manufacturer of alcoholic beverages to offer on a nondiscriminatory basis bona fide incentives to wholesaler if the incentives are determined based on sales to retailers or dealers occurring during specified times and for specified products.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: (Revised) *Summary of Expenditures:* This bill will have an administrative cost impact on the ATC. The Indiana State Excise Police (ISEP) is the law enforcement division of the ATC. The provisions of this bill could cause an increase in enforcement costs to ISEP. It is presumed that the increase could be covered through the use of existing staff and resources. In addition, the bill would generate revenue

through an increase in permit fees, which will help to offset the ATC and ISEP increased administrative costs.

An increase in enforcement costs to the ISEP would be as a result of the following provisions of the bill:

*ATC Definition of Grocery Store;
Samples from Retailers/Dealers;
Primary Source of Supply;
Wholesaler Discounts;
Manufacturer Incentives.*

All of these sections represent new rights or restrictions for the alcoholic beverage industry. The creation of these new rights and restrictions could increase the burden on the ISEP by requiring them to monitor procedures of the industry that they currently do not monitor. It should be noted that the raising of fees should provide the ATC the funds to cover any additional regulatory costs incurred under these provisions.

Alcohol Permit and Tobacco Certificate Changes: The changes to permits provided in the bill will result in an indeterminable increase in administrative costs to the ATC. It is estimated that the increase in fee revenue will offset the increased costs.

Notice by Publication Requirements: This bill eliminates certain notice requirements relating to the issuance of alcoholic beverage permits by the ATC. The elimination of these requirements will result in a savings to the ATC.

Explanation of State Revenues: (Revised) *Summary of Revenues:* This bill increases several of the alcoholic beverage permit fees, as well as increasing the fee for a tobacco certificate. Assuming the number of permits issued remains constant the additional revenue that will be generated per FY is approximately \$1.53 M.

Alcohol Permit and Tobacco Certificate Changes: This bill increases several alcohol permit fees, increases the tobacco certificate fee, and repeals the employee permit fee. The table below illustrates the changes to fees as well as the changes to the permit renewal terms.

<i>Permit</i>	<i>Current Fee</i>	<i>New Fee*</i>	<i>Current Term (yrs.)</i>	<i>New Term (yrs.)</i>
<i>Dealer/Retailer Permits</i>				
<i>1-way</i>	\$250	\$375	1	2
<i>2-way</i>	\$500	\$625	1	2
<i>3-way</i>	\$750	\$875	1	2
<i>Supplemental Retailer</i>	\$250 or	\$500	1	2
<i>Salesperson Permit</i>	\$20	\$100	2	4
<i>Temp. Bartender Permit</i>	\$4	\$10	NA	NA
<i>Volunteer Permit</i>	\$5	\$15	2	2
<i>Tobacco Certificate</i>	\$50	\$200	1	3
<i>Employee Permit</i>	\$30	\$0	2	2

*Note that the new retailer/dealer fees are required to be paid annually under the bill.

** Supplemental retailer permits vary from \$250 to \$1500 per year depending on whether the retailer meets the current food sale requirements. In FY 2004 approximately 1000 retailers paid \$1,500 and 3700 retailers paid \$250.

The total new revenue generated by the increase in fees is estimated at approximately \$1.53 M.

This bill also makes it a Class A infraction for a person to sell or distribute tobacco products to a tobacco retailer who does not hold a valid tobacco sales certificate. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

The bill also allows the ATC to auction not more than five three-way permits to restaurants in Jeffersonville and Clarksville that are located in an economic development district. The bill requires a minimum bid of \$35,000 and a renewal fee of \$1,350, that are deposited in the Enforcement and Administration Fund (EA Fund). If all 5 permits are sold for the minimum bid in each municipality the increase in revenue to the EA Fund will be approximately \$175,000 from the auction, and approximately \$8,500 per year in renewal fees.

Permit Fee Distributions: This bill changes the way that permit fees and tobacco certificate fees are distributed. The overall yearly impact on the various funds is as follows:

- the state General Fund will receive \$317,000 *less* revenue.
- cities and towns overall will receive \$3.6 M *less* revenue.
- the Enforcement Fund will receive an additional \$5.4 M.
- the state Excise Police Retirement Fund will receive an additional \$16,000 in revenue.

These estimates assume that the number of current permit holders will stay constant.

The decrease in the state Excise Police Retirement Fund (EPR Fund) is a direct result of the repeal of the employee permit fee. The EPR Fund is currently supported in large part by employee permit fees, which generated an estimated \$1.5 M in FY 2004. The decrease in the revenue going to cities and towns is purely a result of the bill's change in the distribution of retailer and dealer permit fees. The table below shows the changes in distribution and the shifts in revenue in more detail.

Retailer/Dealer Permits				
Current Distribution	Current Fees	Change	New Fees	New Distribution
General Fund 1/3	\$3,143,250	(\$471,063)	\$2,672,188	25% General Fund
Cities and Towns 2/3	\$6,286,500	(\$3,614,313)	\$2,672,188	25% Cities and Towns
Enforcement Fund NONE	\$0	\$5,344,375	\$5,344,375	50% Enforcement Fund
Salesmen's License				
All General Fund	\$27,310	\$17,752	\$45,062	66% General Fund
Enforcement Fund NONE	\$0	\$23,214	\$23,214	34% Enforcement Fund
Tobacco Certificates				
General Fund	\$412,500	\$136,125	\$548,625	General Fund
Volunteer Permits				
Excise Retirement	\$38,070	\$76,140	\$114,210	Excise Retirement
Temporary Bartender				
Enforcement Fund	\$60,244	\$15,061	\$75,305	Enforcement Fund
Totals by Fund				
	Current Fees	Change	New Fees	
TOTAL REVENUE	\$9,967,874	\$1,527,291	\$11,495,165	TOTAL REVENUE
General Fund	\$3,583,060	(\$317,186)	\$3,265,874	General Fund
Cities and Towns	\$6,286,500	(\$3,614,313)	\$2,672,188	Cities and Towns
Enforcement Fund	\$60,244	\$5,382,650	\$5,442,894	Enforcement Fund
Excise Retirement	\$98,314	\$15,896	\$114,210	Excise Retirement

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small. Also see *Explanation of State Revenues (Permit Fee Distributions)*.

State Agencies Affected: Alcohol and Tobacco Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Dave Heath, Chairman, Alcohol and Tobacco Commission; 317-232-2444.

Fiscal Analyst: Adam Brown, 317-232-9854.